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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,813	01/12/2005	Markus Oles	39509-205611	6790
26694	7590	02/20/2008	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			MATZEK, MATTHEW D	
			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			02/20/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/506,813

Applicant(s)

OLES ET AL.

Examiner

MATTHEW D. MATZEK

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-32 is/are pending in the application.
- 4a) Of the above claim(s) 6-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5 and 24-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment

1. The amendment dated 11/29/2007 has been fully considered and entered into the Record. The claimed hydrophilic silica particles have been further limited to require "fumed hydrophilic silica particles". The previous rejections made in view of Henkel have been withdrawn as the applied art fails to teach the use of fumed hydrophilic silica particles. The previous 112 2nd rejection of claims 29-31 has been withdrawn due to amendment. Claims 1 and 4-32 are currently pending, but claims 6-23 have been withdrawn from consideration. Claims 1, 4, 5 and 24-32 are currently active.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what BET is intended to mean. Please use the full name of the acronym. While the acronym may be well known in the art it is important that all of the public may clearly understand what is encompassed by a claim.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 4, 5, 24- 32 are rejected under 35 U.S.C. 103(a) as being obvious over Henkel (WO 01/83662 A1) in view of Giatras et al. (US 4,701,345). The English equivalent (US 2004/0023824 A1) of the WO document has been relied upon for this rejection.

a. Henkel discloses the use of particles with sizes ranging from 5 to 500nm for improving the soil-release properties of textiles and other surfaces (abstract and [0012]).

The particles may be silica [0011] and hydrophilicize the surfaces to which they are attached [0002]. The particles used in accordance with the invention may be incorporated in liquid, gel-form or even solid compositions [0023]. These alternative forms of presenting the hydrophilic particles to the desired surface serve as the claimed carrier and fixative particles. The applied reference provides for the particles with the instantly claimed size, but the WO document fails to teach or suggest the hydrophilic silica particle surface area. Examiner takes the position that since the instantly claimed size is provided for the same particles would necessarily also provide for the claimed surface area.

b. Henkel fails to teach or suggest a percentage of a surface that is to be covered by the hydrophilic silica particles. The reference does disclose that the content of the silica particles should be gauged so that the surface of the article to be coated is sufficiently covered to impart the desired hydrophilicity [0014]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made article with the instantly claimed amount of silica particles, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

c. Henkel discloses the claimed invention except that it uses precipitated silica [0011] instead of fumed silica, Giatras et al. shows that fumed silica is an equivalent structure known in the art hydrophilic silica. Therefore, because these two forms of silica

were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute precipitated silica for fumed silica (abstract, Giatras et al.) in the invention of Henkel.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 4, 5 and 24-32 have been considered but are moot in view of the new ground(s) of rejection.
5. This application contains claims 6-23 drawn to an invention nonelected with traverse in the reply filed on 11/29/07. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW D. MATZEK whose telephone number is (571)272-2423. The examiner can normally be reached on M-F, 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571.272.1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew D Matzek/
Examiner, Art Unit 1794

/Norca L. Torres-Velazquez/
Primary Examiner, Art Unit 1794